

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

~~(PROPOSED)~~ ORDER GRANTING INDIRECT PURCHASER PLAINTIFFS' MOTION FOR AN ORDER: (1) MODIFYING THE CALCULATION OF PAYMENTS TO LATE LARGE CLAIMANTS; (2) ADDING RESIDUAL OF UNCASHED INCENTIVE AWARDS TO THE MOSEL SETTLEMENT FUNDS; AND (3) AUTHORIZING DISTRIBUTION OF THOSE FUNDS - CASE NO. M-02-1486-PJH

1 On behalf of the Indirect Purchaser Plaintiff Settlement Class, Co-Lead Counsel for the  
2 Indirect Purchaser Plaintiffs have moved this Court for entry of an Order:

3 (1) Modifying the provisions concerning the payment of claims in the Court's prior Order  
4 regarding the distribution of settlement funds to increase the payments to corporations who filed  
5 late claims ("late Large Claimants") from settlement funds received from defendant Mosel Vitelic  
6 ("Mosel"), from a maximum of 50% of a timely-filed claim to 80% of the value of a timely-filed  
7 claim;

8 (2) Directing that a \$23,000 residual in the general settlement fund made up of uncashed  
9 incentive payments to named plaintiffs be added to the Mosel funds for distribution to Large  
10 Claimants; and

11 (3) Directing the distribution of the net settlement funds received from Mosel to Large  
12 Claimants and late Large Claimants.

13 No person timely objected to the subject requests. ~~A hearing was held on May 27, 2021,~~  
14 ~~these matters having come before the Court to determine whether to modify the provisions~~  
15 ~~concerning the payment of claims in the Court's prior Order regarding distribution of settlement~~  
16 ~~funds received from defendant Mosel from a maximum of 50% of a timely-filed claims to 80% of~~  
17 ~~the value of a timely filed claim, to add a \$23,000 residual of uncashed named plaintiff incentive~~  
18 ~~payments to the Mosel funds for distribution to Large Claimants, and direct the distribution of the~~  
19 ~~net settlement funds received from Mosel to Large Claimants and late Large Claimants. No~~  
20 ~~objectors appeared at the hearing.~~

21 The Court, having carefully considered the papers and pleadings on file and oral arguments  
22 of counsel, good cause appearing therefore, it is:

23 ORDERED, ADJUDGED AND DECREED:

24 1. The Court has jurisdiction over the subject matter of this litigation, all actions  
25 within this litigation and the Indirect Purchaser Plaintiff Settlement Class.

26 2. The Court finds that there are no funds remaining from Large Claimant uncashed  
27 checks.

1       3.     The Court finds that there is a fund in the amount of \$1,326,428.55 available for  
 2 distribution from the payments made by Mosel in fulfillment of its settlement obligation.

3       4.     The Court finds that there is a residual of \$23,000 in uncashed Indirect Purchaser  
 4 class-representative incentive award checks. The Court finds that there were originally seventy-  
 5 one (71) uncashed stale-dated incentive award checks, and that Co-Lead Counsel have made a  
 6 diligent effort to locate these class representatives and reissue these uncashed payments, including  
 7 contacting representative counsel and conducting a skip trace procedure to locate class  
 8 representatives. These efforts resulted in twenty-five (25) uncashed incentive award checks being  
 9 reissued to class representatives in late 2017 and early 2018, and forty-six (46) remaining  
 10 unclaimed. Accordingly, the Court grants Co-Lead Counsel's request to add the residual \$23,000  
 11 in uncashed checks to the amount available for distribution to Large Claimants from the payments  
 12 made by Mosel in fulfillment of its settlement obligation.

13      5.     The Court finds that good cause exists to warrant modification of the Court's  
 14 Distribution Order dated May 19, 2016 (Dkt. 2283) pursuant to which late Large Claimants would  
 15 be entitled to be paid from the Mosel settlement funds up to a maximum of 50% of the value of the  
 16 claim had it been timely filed. The Court finds that Co-Lead Counsel have considered the  
 17 equitable arguments of counsel for the 43 approved late Large Claimants, and the Court concludes  
 18 that it would be fair and reasonable under the circumstances here, to pay these late Large  
 19 Claimants 80% of their claim's timely-filed value. Accordingly, the Court hereby modifies its  
 20 prior order and directs Co-Lead Counsel to pay late Large Claimants 80% of their claims' timely-  
 21 filed value. A list of processed and approved late Large Claimants is attached hereto as Exhibit A.

22      6.     The Court finds that Rust has incurred \$26,302.36 in expenses specifically  
 23 concerning the administration and processing of Large Claims above the amount set aside by the  
 24 Court in the Reserve Account set up by the Court's Distribution Order dated May 19, 2016 (Dkt.  
 25 2283) and accepts its estimate that it will incur approximately \$21,000 in additional costs to  
 26 complete the distribution of the Mosel settlement funds to Large Claimants. Accordingly, the

1 Court authorizes Co-Lead Counsel to establish a \$48,000 reserve to pay Rust's outstanding invoice  
2 and all future costs of administering the distribution.

3       7. The Court finds that adding the uncashed incentive awards to the Mosel settlement  
4 funds and deducting the reserve for Rust's expenses, creates a distribution fund of \$1,301,428.55.  
5 Accordingly, the Court directs Co-Lead Counsel to distribute these funds as follows: (1) *pro rata*  
6 to approved late Large Claimants at 80% of the full value of their claims; and (2) the balance of  
7 the funds (\$1,094,811.97) *pro rata* to timely Large Claimants.

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9           **IT IS SO ORDERED.**

10 Dated: May 21, 2021



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# **EXHIBIT A**

## List of Processed and Approved Late Large Claimants

Name	Claimant ID	Claim Number
BANC CERTIFIED MERCHANT SERVICES	5006076	6464
BIG O TIRES STORE 70	5001523	1792
BLUE CROSS BLUE SHEILD OF MICHIGAN	5006126	6512
DIRECTRON COM	5005519	6196
FIRST STATE BANK	499592	3498634
GKM ENTERPRISES INC	498505	3497551
GUNDERSON DETTMER STOUGH VULLENEUVE FRANKLIN & HAC	499845	3498887
HILLSDALE COLLEGE	499020	3498066
LAND GRANT RESTAURANT INC.	500195	3499237
MASCO CORPORATION	5006047	6435
MOUNT SINAI HOSPITAL MEDICAL CENTER OF CHICAGO	498792	3497838
NEW HORIZON GRAPHIC INC	5006129	6517
OAK POINT PARTNERS INC AS PURE WEIGHT LOSS INC BAN	5006148	6536
OAK POINT PARTNERS INC BHO LIQUIDATING TR	5006140	6528
OAK POINT PARTNERS INC S/I/I PENN TRAFFIC CO BANKR	5006131	6519
OAK POINT PARTNERS INC S/I/I SHOE MANIA LLC ET AL	5006145	6533
OAK POINT PARTNERS INC S/I/I TTC ILLINOIS INC ET A	5006144	6532

OAK POINT PARTNERS INC S/I/I USACM LIQ TRUST	5006143	6531
OAK POINT PARTNERS INC S/I/I VON WEISE INC BANKR E	5006142	6530
OAK POINT PARTNERS INC SII ASSIGNEE FBO CREDITORS	506155	6543
OAK POINT PARTNERS INC SII BAYARD SALES CORP BANKR	5006154	6542
OAK POINT PARTNERS INC SII CENTENNIAL LIQUIDATION	5006139	6527
OAK POINT PARTNERS INC SII CREDITORS TR OF PFF BAN	5006137	6525
OAK POINT PARTNERS INC SII FPI LIQUIDATING TR	5006134	6522
OAK POINT PARTNERS INC SII GETTY PETRO LIQ TRUST	5006153	6541
OAK POINT PARTNERS INC SII GLOBE MANUFACTURING COR	5006132	6520
OAK POINT PARTNERS INC SII KAUFMAN BROS ET AL CH 7	5006152	6540
OAK POINT PARTNERS INC SII LFG TRUST	5006151	6539
OAK POINT PARTNERS INC SII MONTGOMERY WARD LLC ET	5006150	6538
OAK POINT PARTNERS INC SII NATIONAL AUDIT DEFENSE	5006133	6521
OAK POINT PARTNERS INC SII PALI CAPITAL INC	5006156	6544
OAK POINT PARTNERS INC SII PHAR-MAR INC ET AL BANK	5006149	6537
OAK POINT PARTNERS INC SII PMTS LIQUIDATING CORP	5006138	6526
OAK POINT PARTNERS INC SII PWD1 LLC ET AL CH 7 EST	5006147	6535
OAK POINT PARTNERS INC SII QUAKER FABRIC CORP ET A	5006135	6523
OAK POINT PARTNERS INC SII QUALITY HOME LOANS BANK	5006146	6534
OAK POINT PARTNERS INC SII USA BIOMASS CORP ET AL	5006136	6524
PERFORMANCE FOOD GROUP INC	5006077	6465

SALVATION ARMY USA SOUTHER TERRITORY	5006121	6509
T-TEC SALES INCORPORATED	498873	3497919
WILLOUGHBY GOLF CENTER INC	5000744	929
WINTHROP RESOURCES CORPORATION	N/A	6529
XAVIENT INFORMATION SYSTEMS, INC	501591	3500633